

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA 4:15-CR-00566-1

VS. HOUSTON, TEXAS

LEE ROY VILLARREAL JUNE 23, 2022

TRANSCRIPT OF JURY TRIAL PROCEEDINGS - DAY 8
HEARD BEFORE THE HONORABLE ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: MR. ANIBAL J. ALANIZ
 MS. CASEY NICOLE MACDONALD
 U.S. Attorney's Office
 1000 Louisiana Street
 Suite 2300
 Houston, Texas 77002

FOR THE DEFENDANT: MR. EDWIN GERALD MORRIS
 Attorney at Law
 505 West 12th Street
 Suite 206
 Austin, Texas 78701

MS. ANGELICA PATRICE COGLIANO
Cogliano Law Firm
2202 Lake Austin Boulevard
Austin, Texas 78703

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MS. ADDY MALDONADO MIRO
Law Office of Addy Miro
608 West 8th Street
Austin, Texas 78701

Official Court Reporter:

Lanie M. Smith, CSR, RMR, CRR
Official Court Reporter
United States District Court
Southern District of Texas
515 Rusk
Room 8004
Houston, Texas 77002

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P R O C E E D I N G S

(June 23, 2022)

(Call to order of the court.)

THE COURT: Counsel, I plan to bring the jury in, assuming we have all 12 them, count heads and have our witness -- Kathy, our court reporter -- read the applicable sections that we talked about last night.

Now, overnight we got an e-mail from Ms. Cogliano.

You want to state your position regarding the -- I think it's the third note? Do you have the note?

It's the third note asking about the transaction of the cocaine deal with Lee Roy Villarreal at Ignite Sports.

MS. COGLIANO: Yes, Judge. And I apologize for the e-mail after we had already left because I had to talk to Gerry about it before we agreed.

But the portion that we had talked about yesterday includes a whole section prior to anybody saying anything about Ignite Motorsports; and we think the question pretty clearly only wants the part of the transcript that actually occurred at Ignite Motorsports, not the part that's in Rio or -- it was Rio or Roma, I believe, prior to that.

THE COURT: Okay. Mr. Alaniz?

MR. ALANIZ: We believe that the appropriate portion of the transcript should be the one we agreed to that we basically

1 believe -- we agreed to it last night, Your Honor.

2 I think that defense counsel is reading the
3 question too narrowly. I think they're requesting information
4 about that particular transaction, so I think that would be the
09:20AM 5 appropriate read-back of the transcript.

6 THE COURT: All right. I'm going to overrule the
7 suggestion of the defendants because I think it's asking about
8 the entire transaction and so we're going to -- I'm going to
9 read the portion that was originally agreed to -- I'm not going
09:20AM 10 to read it. Our court reporter witness is going to read it.

11 My inclination is to just bring the jury in,
12 count heads, and have them read the applicable portions
13 responsive to Juror Notes 2 and 3.

14 I think it would be everybody's guess in here
09:21AM 15 that they're working on Issue 1, Count 1, because these notes
16 both deal with -- I'm not asking y'all to agree with that, but
17 that would be my guess; and if I was in your shoes, that's what
18 I would guess.

19 I could suggest to them if they're hung up on
09:21AM 20 Count 1 to go do Count 2 and 3 and come back. I think it's
21 early for that.

22 MR. MORRIS: I do, too.

23 THE COURT: All right. So all I plan to do then is
24 bring them in, count heads, have these two portions of the
09:21AM 25 testimony read, and send them back.

1 MR. ALANIZ: Yes, sir.

2 THE COURT: All right. Kathy, you probably want to
3 move over here.

4 THE COURTROOM SECURITY OFFICER: All rise for the jury.

09:23AM

5 (The jury entered the courtroom.)

6 THE COURT: All right. Ladies and gentlemen, be
7 seated.

8 I'm counting heads. Do I have 12? And I do.

09:23AM

9 The jury had sent out a note that I unfortunately
10 gave to Kathy here. The juror note is: "We would like to see
11 the portion of Hector Barrios' testimony that deals with the
12 instructions he received from Michael Villarreal when sent to
13 determine who stole the cocaine."

09:23AM

14 And what we're going to do is we're going to have
15 Kathy be our witness. She's our alternate court reporter to
16 Lanie. And she's going to read you the portion of that
17 testimony, and then we'll move to the next note that y'all sent
18 out.

19 And just question, answer.

20 MS. MILLER: Okay.

21 QUESTION: "And before -- let me ask you this.
22 In 2000 -- in May -- I'm sorry. In 2011, early 2011, did
23 Gringo Mike approach you about a cocaine -- some cocaine that
24 had been stolen from him in the U.S.?"

25 ANSWER: "Yes."

1 QUESTION: Where -- was this -- this conversation
2 with Gringo Mike, did it happen in person or do you recall
3 whether it was by phone?"

4 ANSWER: "In person."

09:24AM

5 QUESTION: "Where did this occur?"

6 ANSWER: "In Reynosa at his home."

7 QUESTION: "Can you tell the jury, Mr. Barrios,
8 what Gringo Mike told you about this cocaine?"

09:24AM

9 ANSWER: "Just that they had stolen cocaine that
10 belonged to him in here, the United States, and he wanted me to
11 cross over so that I can investigate that situation."

12 QUESTION: "At that time that he spoke to you
13 about this, did he give you any kind of idea of the amounts of
14 cocaine that were stolen from him?"

09:25AM

15 ANSWER: "Not at that time."

16 QUESTION: "Did you find out later?"

17 ANSWER: "Yes."

09:25AM

18 QUESTION: "Now, when you said he asked you to
19 cross to the U.S. to investigate, can you tell the jury what he
20 meant by that?"

21 ANSWER: "He wanted me to cross over so that I
22 could speak to a friend of his so that his friend could give me
23 the information about the person who probably knew about that
24 problem."

09:25AM

25 (End of testimony read-back.)

1 THE COURT: Thank you, Kathy.

2 And then the next note, the third note was about
3 Mr. Gutierrez and the cocaine transaction -- alleged cocaine
4 transaction that finished at Ignite Motorsports.

09:25AM

5 MS. MILLER: QUESTION: "Did there come a time where
6 Juan proposed that you work with Lee Roy Villarreal and him on
7 a cocaine deal?

8 ANSWER: "Correct."

09:26AM

9 QUESTION: "I want to talk to you about that.
10 Tell the jurors, how did that come about."

11 ANSWER: "Well, Juan asked me to help him out,
12 pick up some kilos, like, in Rio Grande, Roma, or something
13 like that. But he didn't say what. They just told me they are
14 testing us, do you want to pick them up or not? I'm, like,
15 yeah, I mean... And he is, like, I'll drive. No, it's my
16 truck, I'll drive. My truck had a compartment. So I told
17 him I will drive. Let's go pick them up, know what I mean, so
18 I can show him that I wanted to work. And we went to go pick
19 them up and, sure enough, when we got to the house, Lee Roy
20 came out and some other old guy came out, and they gave us a
21 sack of cocaine. It was two sacks. And we hid them in my
22 compartment of my vehicle."

09:27AM

23 QUESTION: "I want to go back and just take it
24 step-by-step. Juan asked you if you are interested in picking
25 up some cocaine and moving it for him?"

1 ANSWER: "Yes."

2 QUESTION: "You agreed to help?"

3 ANSWER: "Correct."

4 QUESTION: "And he says let's pick up the cocaine
09:27AM 5 right now?"

6 ANSWER: "Yes."

7 QUESTION: "And you go where? What city are you
8 in?"

9 ANSWER: "It was Roma or Rio Grande, but I know
09:27AM 10 it's somewhere towards the west."

11 QUESTION: "And Roma or Rio Grande?"

12 ANSWER: "Correct."

13 QUESTION: "Is this daytime or nighttime?"

14 ANSWER: "Daytime."

09:27AM 15 QUESTION: "You and Juan go together?"

16 ANSWER: "Correct."

17 QUESTION: "Who is at the house when you
18 arrived?"

19 ANSWER: "Lee Roy and some old guy. I'm not sure
09:27AM 20 what the guy's name was."

21 QUESTION: "An older guy that you had never met
22 before?"

23 ANSWER: "I had seen him before at the shop."

24 QUESTION: "When you say 'shop,' do you mean the
09:28AM 25 business?"

1 ANSWER: "The Rhino Collision, yes."

2 QUESTION: "The Rhino Collision. Okay. What
3 happens when you get to the house?"

4 ANSWER: "Lee Roy and that old guy comes out. We
09:28AM 5 back into the garage. The house is still under construction.
6 Lee Roy and the other guy hands us the sacks. They were potato
7 sacks. They were -- inside they were the kilos, and I opened
8 my compartments, and we started putting them inside."

9 QUESTION: "What was inside the potato sacks?"

09:28AM 10 ANSWER: "Kilos of cocaine."

11 QUESTION: "Do you know how many kilos of cocaine
12 you received?"

13 ANSWER: "40."

14 QUESTION: "Did Lee Roy Villarreal personally
09:28AM 15 hand you a sack --"

16 ANSWER: "Yes."

17 QUESTION: "-- that contained cocaine. And did
18 you have your tractor-trailer with you?"

19 ANSWER: "No."

09:29AM 20 QUESTION: "Or a different vehicle?"

21 ANSWER: "It was my personal vehicle."

22 QUESTION: "Your personal vehicle that had a
23 secret compartment inside?"

24 ANSWER: "Correct."

09:29AM 25 QUESTION: "When Lee Roy Villarreal gave you the

1 sack that had the cocaine in it, what did you do with the
2 cocaine?"

3 ANSWER: "I put it inside the compartment in my
4 personal vehicle."

09:29AM

5 QUESTION: "Was Lee Roy there to see that?"

6 ANSWER: "Yes."

7 QUESTION: "Did he say anything to you?"

8 ANSWER: "He was amused with the electronic
9 components" --

10 Not "components." "Compartments." Excuse me.

11 QUESTION: "What do you mean?"

12 ANSWER: "I mean the way they work, I guess,
13 because they are not used to seeing electronic compartments."

14 QUESTION: "Would you --"

09:30AM

15 ANSWER: "He looked amused the way I opened
16 them."

17 QUESTION: "Would you describe the compartments
18 for the jury so they can understand?"

19 ANSWER: "The compartments are in the back
20 tailgate of my truck. They were electronic. You had to do
21 several things to open it and both tailgates -- both taillights
22 would open up automatically all the way to the back."

23 QUESTION: "Were you able to load all 40 kilos?"

24 ANSWER: "Oh, yeah."

09:30AM

25 QUESTION: "How long would you say you were at

1 the house when Lee Roy gave you the 40 kilos of cocaine?"

2 ANSWER: "Not even no more than 15, 20 minutes.
3 It was quick, in and out."

4 QUESTION: "After you load up your car with the
09:30AM 5 cocaine, what do you do?"

6 ANSWER: "We go straight to Rhino Collision.
7 Actually we went straight to Juan's shop, Ignite Motorsports,
8 in the same property where Rhino is at."

9 QUESTION: "What do you do when you arrive at the
09:31AM 10 shop?"

11 ANSWER: "We go in there. They close the gates.
12 It's just Lee Roy, me, and I think Toni was there, too, and
13 that old guy. And the first thing Lee Roy goes, he goes and
14 he -- I start opening the compartment. He goes to the doors of
15 the compartment of my truck, and I don't know why he
16 started counting the kilos. I guess he thought we were
17 going to get something. I don't know."

18 QUESTION: "Who started taking the kilos out?"

19 ANSWER: "I started taking them out, and he
09:31AM 20 started counting them. I don't know why he was counting them."

21 QUESTION: "When you say 'he,' who do you mean?"

22 ANSWER: Lee Roy.

23 QUESTION: "Okay. Who else was present?"

24 ANSWER: "Juan Garcia."

09:32AM 25 QUESTION: "Juan Garcia? Was the guy Toni still

1 there?"

2 ANSWER: "Yes."

3 QUESTION: "Did Lee Roy count the bricks?"

4 ANSWER: "Yes."

09:32AM

5 QUESTION: "Was he making a notation or

6 something?"

7 ANSWER: "Not that I know of."

8 QUESTION: "What happened after the bricks were
9 counted?"

10 ANSWER: "After he counted them, we went to the
11 office, and I guess Juan and him negotiated a rate, I mean, a
12 payment. And then he offered us so many amount of kilos for
13 us, and so many amount of kilos for him to transport."

14 QUESTION: "Who offered?"

09:32AM

15 ANSWER: "Lee Roy did."

16 QUESTION: "Were you present to hear this?"

17 ANSWER: "Yes."

18 QUESTION: "Do you recall what the negotiations
19 were as far as money and amounts?"

09:32AM

20 ANSWER: "If I am not recalling, I think it was 5
21 or 10 kilos for me and Juan and then the rest were straight for
22 him."

23 QUESTION: "When you say 5 or 10 kilos for you
24 and Juan, can you explain to the jury what you mean?"

09:33AM

25 ANSWER: "In other words, the rest of it. When

1 everything is sold, the profits for those 5 and 10 kilos are
2 for me and Juan."

3 QUESTION: "What about the rest of the 30 kilos?"

4 ANSWER: "Profits for him."

09:33AM

5 QUESTION: "When you say 'him,' we have to
6 use --"

7 ANSWER: "Lee Roy."

8 (End of testimony read-back.)

09:33AM

9 THE COURT: All right. Ladies and gentlemen, I'm going
10 to let you retire and begin your deliberations again.

11 I will say this: Even though the prosecution and
12 the defense have taken different views on a lot of things in
13 this case, they all agreed that I should not be the one to read
14 that testimony.

09:33AM

15 All right. Y'all are excused to begin your
16 deliberations.

17 COURTROOM SECURITY OFFICER: All rise.

18 (The jury exited the courtroom.)

19 THE COURT: Okay. Y'all can be seated.

09:34AM

20 Ms. Garcia-Pena, will you come up here, please?

21 Ms. Garcia-Pena, you and I had a discussion at
22 which you agreed -- and, in fact, I went and had the court
23 reporter type it up to make sure my memory was accurate and it
24 was -- not to publish or blog about any people, and especially
09:35AM 25 the defendant, cooperating with the FBI, at least until well

1 after the trial.

2 And, you know, I even have here where you said,
3 "Okay. Not a problem."

4 And I said, "Okay."

09:36AM 5 And during the trial, you did it.

6 MS. GARCIA-PENA: There was only one article before you
7 mentioned anything to me.

8 THE COURT: Well, this was published Tuesday evening;
9 and we had that discussion on Friday, the Friday before.

09:36AM 10 MS. GARCIA-PENA: I will look back through my notes,
11 but I did not intentionally publish anything like that. I will
12 look back; and if I have to remove something, I will.

13 THE COURT: I have what you published.

14 MS. GARCIA-PENA: Okay.

09:36AM 15 THE COURT: And you published about the defendant
16 cooperating with the FBI, the very thing I told you not to do;
17 and you agreed.

18 And I was as nice as I could be about it because
19 I gave you the option. I said, "I don't want to have to kick
09:36AM 20 you out of the courtroom."

21 I'm a firm believer in the First Amendment, but I
22 also am a firm believer that I don't want anyone connected with
23 this trial to be threatened or hurt. I want to protect the
24 integrity of this trial.

09:37AM 25 MS. GARCIA-PENA: And I also want you to know that I am

1 actually documented as the only reporter in Texas to have been
2 threatened by cartel members as well.

3 THE COURT: Well, then you ought to be sympathetic to
4 this very thing.

09:37AM

5 MS. GARCIA-PENA: Right. I thought I had been very
6 careful; but, again, if there needs to be something removed.

7 THE COURT: I'm now ordering you not to do this, okay?

8 MS. GARCIA-PENA: Okay.

09:37AM

9 THE COURT: Now, I'm trying to be as nice about it as I
10 can.

11 MS. GARCIA-PENA: And I'm also trying to be --

09:37AM

12 THE COURT: And as respectful to your right as a
13 reporter to do what you need to do connected with your
14 profession because I'm a firm believer in that. But we've got
15 to balance the safety of certain people and the integrity of
16 the trial versus your right to be a reporter.

17 So no more cooperating with -- and I don't care
18 if it's the FBI or the DEA or any kind of law enforcement -- no
19 more publishing until after the trial, okay?

09:38AM

20 MS. GARCIA-PENA: Okay. And I'll look back at that
21 post as well.

22 THE COURT: All right. Thank you.

23 All right, counsel, make sure Rhonda can find
24 you.

09:38AM

25 MR. ALANIZ: Yes, sir.

1 (Court is in recess.)

2 COURTROOM SECURITY OFFICER: All rise.

3 THE COURT: All right. Counsel, y'all can be seated.

4 We have a note that they've reached a verdict.

10:31AM 5 The way I accept my verdicts, unless I hear an objection from
6 the parties, is that they will come out, I'll have them hand me
7 the verdict, I'll read the verdict.

8 I'm going to order that everybody that's in the
9 courtroom remain in the courtroom while I go dismiss the jury
10:31AM 10 and I'll visit with them and thank them for their service and
11 then we'll come back and deal with any items we need to deal
12 with and then you will be free to go.

13 Is there any reason we shouldn't ask them to come
14 in and share the verdict?

10:32AM 15 MR. ALANIZ: Not from the government, Your Honor.

16 MR. MORRIS: Not from the defense.

17 THE COURT: All right.

18 (Brief pause in the proceedings.)

19 THE COURTROOM SECURITY OFFICER: All rise for the jury.

10:33AM 20 (The jury entered the courtroom.)

21 THE COURT: All right. Ladies and gentlemen, be
22 seated.

23 I understand the jury has reached a verdict.

24 THE FOREPERSON: Yes, Your Honor.

10:33AM 25 THE COURT: Would you hand it to one of the security

1 officers, please.

2 All right. With regard to Count 1, conspiracy to
3 distribute and dispense controlled substances, the jury has
4 found the defendant guilty.

10:34AM

5 Special Interrogatory, it's found cocaine;
6 Special Interrogatory 2, more than 5 kilograms.

7 With regard to Count 2, the conspiracy to kidnap,
8 the jury has found the defendant not guilty.

10:34AM

9 And with regard to Count 3, the jury has found
10 the defendant not guilty.

11 All right. Counsel, is there any reason not to
12 let the jury retire back to the jury room?

13 MR. ALANIZ: Not from the government, Your Honor.

14 MR. MORRIS: Not from the defense, Your Honor.

10:34AM

15 THE COURT: All right. Ladies and gentlemen, I'm going
16 to ask you to return to the jury room. I'm going to come visit
17 with you for a minute, and then I'll dismiss you.

18 THE COURTROOM SECURITY OFFICER: All rise for the jury.

19 (The jury exited the courtroom.)

10:35AM

20 THE COURT: All right. As I said before, I want
21 everybody to remain in the courtroom.

22 (Brief pause in the proceedings.)

23 THE COURTROOM SECURITY OFFICER: All rise.

24 THE COURT: All right. Be seated.

11:03AM

25 Mr. Villarreal, if you and Mr. Morris and

1 Ms. Cogliano would come up.

2 Mr. Villarreal, the jury has found you guilty on
3 Count 1, not guilty on the other counts. So we're going to
4 have to proceed forward on Count 1 through the sentencing
11:03AM 5 phase.

6 You sat through some of the guilty pleas I've
7 taken during the trial, but let me tell you how it works just
8 for your benefit.

9 The probation department is going to make an
11:03AM 10 investigation. They'll look at the crime that you were found
11 guilty, any related relevant conduct, any criminal history that
12 you might have and they'll take that and apply the guidelines
13 to it and they'll put that in a report that talks not only
14 about the guidelines, but it's got personal information in it
11:04AM 15 like your educational background and all that kind of stuff
16 will be in this.

17 So it's a small booklet and both sides get that;
18 but when they do that, part of that preparation report, they'll
19 want to interview you. And when they do that, you want to be
11:04AM 20 sure one of your lawyers is present. You understand that.

21 The investigation preparation of the presentence
22 report will be completed by September 9th. The government gets
23 a copy of it, you get a copy of it. Go over it with your
24 counsel. Make any kind of additions, corrections,
11:04AM 25 modifications, any objections and let's have those on file by

1 September 23rd.

2 If there are no objections, I would like a
3 statement to that effect signed by you and Mr. Morris.

4 The final report will be due to the Court on
11:05AM 5 October 7th, and the case is set for sentencing on
6 October 17th.

7 MR. MORRIS: Your Honor, I have a jury trial scheduled
8 that week.

9 THE COURT: We can move it. I mean, just get with
11:05AM 10 Rhonda. We will be flexible on that.

11 All right. Mr. Alaniz, Mr. Villarreal has been
12 free on bond throughout this process. What's the government's
13 position?

14 MR. ALANIZ: Your Honor, pursuant to 18 U.S. Code 3143,
11:05AM 15 we're asking the Court to take him into custody now that he's
16 been found guilty based on that particular statute.

17 MR. MORRIS: We'd ask that he remain on bond. He's
18 been on bond six years, and we have an additional issue.

19 The Court heard testimony from basically the guy
11:05AM 20 that was tasked with the job of cleaning up after Gringo Mike
21 and by implication, that would involve killing the defendant as
22 well and if he's taken into custody, he's probably going to be
23 put into the same place that guy is.

24 MR. ALANIZ: Your Honor, basically the statute says in
11:06AM 25 order for the Court to allow him to stay on bond after being

1 found guilty of this particular offense, it says: "The
2 judicial officer must find by clear and convincing evidence
3 that the person is not likely to flee or pose a danger to other
4 persons in the community."

11:06AM

5 Mr. Villarreal already fled once when he thought
6 he was going to be arrested.

7 THE COURT: Can I specify where he's taken? I'm asking
8 the Marshal.

9 THE MARSHAL: I'm sorry, Your Honor?

11:06AM

10 THE COURT: Can I have him, if he's taken into custody,
11 sent to Joe Corley?

12 THE MARSHAL: We can if that's what you would like,
13 Your Honor.

11:06AM

14 THE COURT: Well, a lot of the witnesses are at FDC;
15 and I don't want him --

16 THE MARSHAL: And also as long as you let the Marshals
17 know, we can make sure he stays away from everyone.

11:07AM

18 THE COURT: All right. I'm going to order him taken
19 into custody. If there are any additional issues, I'll
20 consider any motion by the defense. But I'm going to order him
21 taken into custody today. I'm going to order him taken to
22 Joe Corley though because I don't want him put in any danger.

11:07AM

23 And then if there's a reason or a way that you
24 guys think is appropriate to get around the statute Mr. Alaniz
25 has been quoting, I'll consider any motion that you file.

1 All right. Anything else we can take up?

2 MR. ALANIZ: Not from the government, Your Honor.

3 MR. MORRIS: Is there a probation officer in the
4 courtroom?

11:07AM

5 THE COURT: I don't see one.

6 MR. MORRIS: As I recall, in this district it's on me
7 to contact them to set up the --

8 THE COURT: I think they contact you.

9 THE CASE MANAGER: They contact you.

11:07AM

10 THE COURT: They'll contact you, Mr. Morris, but I'll
11 be --

12 MR. MORRIS: May Mr. Villarreal say good-bye to his
13 family before he's taken into custody?

14 THE COURT: Absolutely.

11:08AM

15 MR. ALANIZ: May we be excused, Your Honor?

16 THE COURT: You may. And I will visit with you off the
17 record if you want to hear what the jury told me.

18 MR. ALANIZ: Whenever the Court wants us.

19 THE COURT: All right. We'll stand adjourned then.

20 (The proceedings were adjourned.)

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REPORTER'S CERTIFICATE

I, Lanie M. Smith, CSR, RMR, CRR, Official Court Reporter, United States District Court, Southern District of Texas, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.

/s/ Lanie M. Smith
Official Court Reporter

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